

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	
	)	Case No. 04-CV-744-TCK-FHM
McCANN RESOURCES, INC.	)	
and	)	
MARK W. MCCANN,	)	
	)	
Defendants.	)	

CONSENT DECREE

CONSENT DECREE

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WHEREAS Plaintiff United States of America, by the authority of the Attorney General of the United States and through its undersigned counsel, acting on behalf of the United States Environmental Protection Agency ("EPA"), filed a Complaint in this action for civil penalties and injunctive relief alleging that, during the course of their oil production activities in Osage County, Oklahoma, McCann Resources, Inc. and Mark W. McCann (collectively "Defendants") violated: (A) Section 1423(b) of the Safe Drinking Water Act, 42 U.S.C. § 300h-2(b), and the Underground Injection Control regulations promulgated thereunder, 40 C.F.R. § 147.2901 et seq. (Subpart GGG), based on the operation of injection wells without mechanical integrity; (B) Sections 301 of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1311, based on the discharge of produced water (brine) into waters of the United States; and (C) Sections 311(b)(7)(C) and (j) of the CWA, 33 U.S.C. §§ 1321(b)(7)(C) and (j), based on their failures to comply with regulations promulgated pursuant to Section 311(j) of the CWA, 33 U.S.C. § 1321(j), related to the preparation and implementation of a Spill Prevention Control and Countermeasures Plan at their oil production facilities in Osage County, Oklahoma.

WHEREAS this Consent Decree is intended to constitute a complete and final settlement of the United States' claims set forth in the Complaint, and the Defendants do not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint; and

WHEREAS the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest,

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1395(a), as well as Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), and Sections 309(b), 311(b)(7)(E), and 506 of the CWA, 33 U.S.C. §§ 1319, 1321(b)(7)(E) and 1366. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1395(a), Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), and Sections 309(b) and 311(b)(7)(E) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E). For purposes of this Decree, Defendant does not contest the Court's jurisdiction over this action or over Defendant and does not contest venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted.

3. Notice of the commencement of this action has been given to the State of Oklahoma, as required by Section 309(b) of the Act, 33 U.S.C. § 1319(b).

II. APPLICABILITY

4. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Defendants, their agents, successors, and assigns.

5. Until termination of this Consent Decree, at least thirty (30) days prior to transferring ownership or operation of the Facilities to any other person, Defendants shall provide a copy of this Consent Decree to each prospective successor owner or operator and shall simul-

taneously verify such by a written notice to EPA Region 6, the United States Attorney for the Northern District of Oklahoma and the United States Department of Justice, in accordance with Section XV of this Decree (Notices). Any such transfer must be conditioned upon the transferee's agreement to undertake the obligations required by this Decree as to the transferred Facility, and no such transfer shall relieve Defendants of their obligation to ensure that the terms of the Decree are implemented. Notwithstanding the above, the operation and maintenance requirements of Paragraph 15 and reporting requirements of Paragraph 21(c) and 22 shall not be binding on an arms-length transferee that is not affiliated with Defendants or Defendants' employees or families, and Defendants' operation and maintenance obligations under Paragraph 15 and reporting obligations under Paragraphs 21(c) and 22 shall cease as to the transferred Facility after the transferee takes possession and operation control of the Facility.

6. Defendants shall provide a copy of this Consent Decree to all officers or management employees whose duties might reasonably include compliance with any provision of this Decree. Defendants shall be responsible for ensuring that the terms of this Consent Decree are complied with by all officers, management employees, and agents whose duties might reasonably include compliance with any provisions of this Decree, as well as any contractor retained to perform work required under this Decree. Defendants shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

### III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in the Clean Water Act or the Safe Drinking Water Act, or in regulations promulgated pursuant to these Acts, shall have the meaning assigned to them in the statutes and such regulations. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- a. "Apex Report" shall mean the December 16, 2005 Multiple-Site Investigation Report submitted by Apex Environmental, Inc. to Mark McCann, attached as Appendix A.
- b. "Complaint" shall mean the complaint filed by the United States in this action;
- c. "Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXIII);
- d. "Day" shall mean a calendar day unless expressly stated to be a working day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day;
- e. "Defendants" shall mean McCann Resources, Inc. and Mark W. McCann;
- f. "Discharge" shall mean any spilling, leaking, pumping, pouring, release, emitting, emptying or dumping of oil, produced water, or brine contaminated storm water.

g. "Effective Date" shall mean the date of entry of this Consent Decree by the Court after satisfaction of the public notice and comment procedures set forth in Section XIX of this Consent Decree;

h. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

I. "Facilities" shall mean Defendants' oil production facilities in Oklahoma, consisting of all structures, including but not limited to injection wells, production wells, storage facilities, piping, flowlines, or separation equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of oil, or associated storage or measurement.

j. "Paragraph" shall mean a portion of this Decree identified by an arabic numeral;

k. "Parties" shall mean the United States and Defendants;

l. "Produced Water" shall mean the liquid byproduct of oil production.

m. "Section" shall mean a portion of this Decree identified by a roman numeral;

n. "State" shall mean the State of Oklahoma; and

o. "United States" shall mean the United States of America, acting on behalf of EPA.



#### IV. CIVIL PENALTY

9. Defendants shall pay, jointly and severally, the sum of \$11,000 as a civil penalty in two installments, with the first installment of \$5,500 to be paid within 30 days after the Effective Date of this Consent Decree and the second payment of \$5,500 to be paid within 180 days of the Effective Date of this Decree.

10. If payment is made more than 30 days after the Effective Date of this Decree, Defendant shall pay the principal amount, together with interest on that amount accruing from the date of Entry of the Consent Decree, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be timely provided to Defendant, following entry of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Oklahoma. At the time of payment, Defendant shall simultaneously send written notice of payment and a copy of any transmittal documentation (which should reference DOJ case number 90-5-1-1-07876 and the civil action number of this case) to the United States in accordance with Section XIV of this Decree (Notices).

11. Defendants shall not deduct the civil penalty paid under this Section in calculating federal income tax.

#### V. COMPLIANCE REQUIREMENTS

12. Defendants shall perform all measures necessary to achieve and maintain compliance at their Facilities with the SDWA, the CWA, 40 C.F.R. § 147.2901 et seq. (Subpart GGG) (2005), 40 C.F.R. Part 112 (2005), and the certified SPCC Plans for the Facilities.

### CORRECTIVE ACTION

13. To ensure proper operation and reduce the potential threat of discharges of oil or produced water from Defendants' Facilities, Defendants shall implement the following actions:

A. Defendants shall implement the "suggestions/solutions" specified in the Apex Report regarding each of the Facilities subject to the modifications and standards specified below:

I. For each Facility identified in the Apex Report as needing a "non-absorbent and/ or non-liquid conducting liner," Defendants shall install an impermeable liner within the relevant containment areas. Such impermeable liner shall consist of either adding bentonite gel or a well compacted clay liner, minimum of one inch in thickness. Defendants shall complete this action within 30 days of the Effective Date entry of this Consent Decree, and shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

ii. For suggested grading or improvements to dikes identified in the Apex Report, Defendants shall repair the dikes and/or address the grading so that the secondary containment system is capable of containing the entire volume of the largest container within the containment system and allowing sufficient freeboard to contain precipitation, as specified in 40 C.F.R. §112.9. Defendants shall complete this action within 30 days of the Effective Date of this Consent Decree, and shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

iii. For each Facility identified in the Apex Report as having evidence of equipment leaks, Defendants shall inspect and evaluate the oil production equipment to determine the source of any leaks and to determine the imminent risk of additional leaks. Attachment A of

the Apex Report contains a list of Facilities that have equipment leaks requiring repair.

Defendants shall complete the evaluation and repair or replace any identified faulty equipment within 30 days of the Effective Date of this Consent Decree. Defendants shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

iv. For each Facility identified in the Apex Report as a candidate for painting, Defendants shall identify any excessive corrosion or "flaking" on the equipment that has the potential to compromise the structural integrity of vessels such as storage tanks, separators, heater treaters, and oil/water separators. Where corrosion is treatable and has not compromised the structural integrity of a vessel, Defendants shall remove the excessive corrosion or flaking and apply a corrosion inhibition technique such as paint or any acceptable method consistent with industry standards. Where the corrosion has compromised the structural integrity of the vessel making it unsuited for continued service under current and anticipated operating conditions, Defendants shall immediately replace the vessel or place it permanently out of service. Defendants shall complete this action within 30 days of the Effective Date of this Consent Decree, and shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

v. In lieu of fencing each Facility identified in the Apex Report as needing security fencing, Defendants shall identify Facilities with a history of vandalism and/or uncontrolled access by the public and provide to EPA by October 30, 2006 for review and approval a schedule for the installation of security fencing (sufficient to deter unauthorized access) at those Facilities. Defendants shall install security fencing at those Facilities, including

the Bowring Tank Battery, within 30 days of the Effective Date of this Consent Decree.

Defendants shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

B. Defendants shall identify all sections of production and injection flow lines at the Facilities that currently have more than one clamp/splice per section of steel flow line, or per 30 feet of poly line, by no later than October 15, 2006. Defendants shall submit a schedule for EPA's review and approval by October 30, 2006 for either: (1) pressure testing of said sections of flow line, or (2) replacing those sections of flow line. Defendants shall complete the pressure testing or replacement of the identified flow lines by January 31, 2007. Those lines that fail the pressure tests shall be replaced within 30 days of the test. Defendants shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

#### REMEDICATION AND RESTORATION

14. A. For each brine discharge location identified in the Complaint or identified in the Apex Report for remediation, Defendants shall submit to EPA for approval a site specific remediation/restoration plan by October 30, 2006. The remediation/restoration plans shall be developed by a soil scientist/soil biologist/soil chemist (or equally qualified individual), shall incorporate soil analysis data submitted with the Apex Report, and shall consider soil structure and composition at each site. Upon approval of the plans by EPA, Defendants shall implement and complete the site specific remediation/restoration for each impacted area by January 31, 2007. Defendants shall submit an action completion report to EPA no later than 30 days after completion in accordance with Paragraph 21(A).

B. If, prior to May 30, 2006, Defendants have taken action to remediate/restore damaged soils at areas identified in the Complaint or in the Apex Report, then, in lieu of the requirements of Subparagraph 14(A), Defendants shall, within 30 days of entry of the Consent Decree, provide a written report to EPA with the following information as to each remediated/restored site:

(I) identify the remediation/restoration action taken, including the extent of soil affected, the techniques used to remediate/restore the soil, the basis for determining the scope of the area remediated/restored (including sampling data), by whom the work was planned and implemented, and the dates of the activity.

(ii) the results of post-remediation sampling of the remediated area by a soil scientist/soil biologist/soil chemist (or equally qualified individual);

(iii) a certification by a soil scientist/soil biologist/soil chemist (or equally qualified individual) that the remediation/restoration effort has, in fact, remediated/restored the area; and

(iv) photographs of the remediated/restored areas.

#### OPERATION AND MAINTENANCE

15. Defendants shall take all actions necessary to prevent the discharge of oil or produced water from Defendants' Facilities into streams or other water bodies, including, but not limited to, the following:

A. Defendants shall comply with the certified SPCC Plans prepared for each Facility. Defendants agree that any new personnel hired after the effective date of this Consent Decree to be involved in the operations and requirements described in the SPCC Plan shall

receive appropriate training on the contents of the Plan within 7 days of commencement of employment.

B. By October 30, 2006, Defendants shall amend the SPCC Plans for each Facility to prohibit the release of overflow liquids, rain, runoff water or any other liquid that is accumulated within the secondary containment or diked areas onto the land outside of the secondary containment or of the diked areas regardless of the salt or chloride content of the accumulated liquid. By October 30, 2006, Defendants shall also amend the SPCC Plans for each Facility to require disposal of any accumulated liquid in the secondary containment or diked areas by hauling the accumulated liquid off-site to a commercial disposal facility or by re-injecting the accumulated liquid substances through the injection wells.

C. Defendants' authorized representative shall inspect active Facilities on at least a bi-weekly basis utilizing the "Daily Inspection Procedures SPCC Plan Attachment #4" and "SPCC Plan, Attachment #3 Onshore Facility Bulk Tanks Drainage System" provided in the applicable SPCC Plan to determine the presence or potential threat of discharges of oil or produced water and shall take appropriate action to prevent or abate the actual or potential discharge of oil or produced water. Potential threats include, but are not limited to, corroded or leaking equipment, high fluid levels within the secondary containment area, and eroded secondary containment berms. Defendants shall maintain a written log of inspections noting the date and time of inspections, observations made, and actions taken. This log shall be produced to EPA upon request.

D. Defendants shall conduct comprehensive lease-wide inspections of each Facility, utilizing the procedures set forth in "Annual Inspection Procedures Attachment #4A" to

the Applicable SPCC Plan, every six (6) months beginning either 180 days from the lodging of this Consent Decree or 180 days from the date of the last comprehensive inspection utilizing the methods in Attachment #4A, whichever date is earlier. A written report of the comprehensive inspection findings for each Facility shall be submitted to EPA within fourteen (14) working days of the inspection, and the report shall include observations made, notice and photographs of any noncompliant Facilities, corrective measures taken, and an expedited schedule for repair and/or replacement of damaged, eroded, excessively corroded or otherwise non-compliant equipment or Facilities.

E. In addition to any other requirements of law, in the event of a discharge, release or spill of oil or produced water from defendants' facilities that threatens streams or other water bodies, or that flows a distance of greater than 10 feet in any direction from the point of release, defendants shall promptly take measures to remediate/restore the impacted soil areas and water bodies in accordance with the criteria of Paragraph 14(A).

F. Defendants will install remote alarm monitoring systems for the salt water tanks at the Bowring, Horton, Whitmire, North Hickory/Thunderbolt, and Domes facilities and will maintain remote monitoring of those alarm systems for the term of this Consent Decree.

#### UIC REQUIREMENTS

16. In regard to the UIC requirements at the Parker Lease, Defendants shall comply with the following terms set forth in this paragraph:

A. Complete one of the following:

I. Plug all wells/open well bores according to Federal regulations within 180 days of the Effective Date of this Consent Decree; or

ii. Complete the following actions:

1. Convert Well No. 85 located in the SW/4, Sec. 15, T27N, R12E to a production formation pressure monitor well within 30 days from the Effective Date of this Consent Decree. Measure the static fluid level, or positive fluid pressure, in the well upon conversion to a monitor well and annually thereafter. Submit monitoring results to the EPA within 30 days after conversion of the well to a monitor well and annually, in April, thereafter.
2. Plug injection wells numbered W-6, W-79, W-80, W-81, W-84, W-86, within 120 days from the Effective Date of this Consent Decree.
3. Demonstrate the mechanical integrity of any injection well that has not been tested within the past five years either (a) before using that well for fluid injection, or (b) within 180 days from the Effective Date of this Consent Decree, whichever is sooner
4. Test casing integrity of each non-injection well according to the following schedule:

<u>Well Type</u>	<u>Mechanical Integrity Test Date</u>
Well No. O-58 and O-59	180 days from the Effective Date of Consent Decree
Inactive Production Well	240 days from the Effective Date of Consent Decree



Active Production Well

360 days from the Effective Date of

Consent Decree

5. Mechanical integrity testing of injection wells shall be according to regulations at 40 C.F.R. § 147.2912(a)(1). "Mechanical integrity testing of non-injection wells shall be by applying pressure to the upper 400 feet of the long-string casing, at a minimum. Test pressure shall be the greater of 200 psig or a pressure calculated by the EPA according to the following equation:

$$\text{test pressure} = ((400 - \text{SFL}) \times \text{SP} \times 0.433 + \text{GP}) / \text{NWF}$$

SFL = Static fluid level in the well on the date of the test (feet subsurface)

SP = Specific gravity of the fluid in the well (unitless)

GP = Positive gage pressure at the well head (psig)

NWF = Nitrogen weight factor of nitrogen, if nitrogen is used to apply pressure (unitless)

6. Defendants shall contact the EPA, Tulsa Field Office at (918) 557-1615 at least five days before conducting any mechanical integrity test so that an EPA representative can witness the test.

7. Any well which fails a mechanical integrity test shall be repaired and pass a mechanical integrity test, or be plugged and abandoned according to BIA and EPA regulations, within 60 days from the original test date.

Notify the BIA and EPA at least five days before plugging or testing a well so they can witness the test or plugging operations.

8. Defendants shall repeat mechanical integrity demonstrations of all wells at least every five years from the date of the last successful mechanical integrity test as long as fluids are being injected into the Wayside sandstone, or shallower formations, on the Parker Lease. More frequent testing may be required on wells where there is evidence of mechanical integrity failure.

9. EPA may require additional work (plugging, testing, or repair) on any well if inspections or testing indicate that fluids are moving through the well into USDWs or there is evidence that injection activities are causing contamination of USDWs. EPA and Defendants would discuss specific conditions and appropriate corrective action requirements before EPA requires further corrective action.

17. In regard to the UIC requirements at the Culver Lease, Defendants shall convert the Culver 13 injection well to production use within 30 days after the Effective Date of this Consent Decree. The well shall be considered converted to production use after Defendants install production equipment on the well, use the well for oil production for at least 25 days, submit a report (Osage Form No. 139) of the conversion to both the Bureau of Indian Affairs, Osage Agency and to the EPA, and submit a request for termination of the UIC permit for the well to the EPA.

18. Cancellation of Leases by the BIA. In the event that, during the term of this Consent Decree, a McCann lease that is the subject of this Decree is cancelled and McCann loses the right to operate Facilities on the lease, then as to that lease defendants shall do the following:

- A. Comply with BIA, State and lease requirements regarding the operator's lease termination responsibilities ;
- B. Shut in the lease and empty and properly dispose of the contents of tank batteries and liquid in containment areas prior to vacating the Facility;
- C. Complete the restoration/remediation requirements of Paragraph 14 above; and
- D. Complete the requirements of 16(A) with respect to cancellation of the Parker Lease .

Upon completion of requirements A-D and submission of a certified report to EPA detailing these actions, and approval by EPA, Defendants would have no further obligations under Section V with respect to those Facilities.

19. Submittal and Approval of Deliverables. Defendants shall submit any plan, report, or other item that is required to be submitted for approval pursuant to this Consent Decree to EPA. EPA may approve the submittal or decline to approve it and provide written comments. Within 20 days of receiving EPA's written comments, Defendants shall either: (i) alter the submittal consistent with EPA's written comments and provide the submittal to EPA for final approval; or (ii) submit the matter for dispute resolution under Section IX of this Decree. Upon receipt of EPA's final approval of the submittal, or upon completion of the submittal pursuant to

dispute resolution, Defendants shall implement the submittal in accordance with the schedule in the approved submittal. EPA retains its right to seek stipulated penalties, as provided in Section VII of this Decree (Stipulated Penalties), for any material defects in the original or revised submission.

20. Where any compliance obligation required to be met under this Section requires a federal, state, or local permit or approval, Defendants shall submit timely and complete applications or requests and take all other actions necessary to obtain all such permits or approvals. Defendants may seek relief under the provisions of Section VIII (Force Majeure) of this Consent Decree for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit required to fulfill such obligation, if Defendants have submitted timely and complete applications or requests and has taken all other actions necessary to obtain all such permits or approvals.

#### VI. REPORTING REQUIREMENTS

21. Defendants shall submit the following reports:

A. As provided in Section V, Defendants shall submit to EPA completion reports for each action that shall include the status of any compliance measures and a discussion of Defendants' progress in satisfying their obligations in connection with Section V of this Decree. The reports should include, at a minimum, a narrative description of activities undertaken, compliance with the schedules or milestones for compliance measures, and a summary of costs incurred and photographic documentation of activities or progress reported.

B. If Defendants or Defendants' Facilities are in violation of any requirement of this Consent Decree, Defendants shall notify the United States and the State [if applicable] of

such violation and its likely duration in writing within 5 working days of the day Defendant(s) first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the likely cause of a violation cannot be fully explained at the time the report is due, Defendants shall include a statement to that effect in the report. Defendants shall investigate to determine the likely cause of the violation and then shall submit an amendment to the report, including a full explanation of the likely cause of the violation, within fifteen (15) days of the day Defendants becomes aware of the cause of the violation. If Defendant seeks to invoke force majeure, it shall comply with the requirements of Section VIII of this Decree.

C. Defendants shall notify EPA in writing within 7 days of observing any discharge of produced water or oil that impacts an area of 500 square feet or greater (but which does not directly threaten navigable waters of the United States), subject to the more stringent reporting requirements of applicable law or other provisions of this Decree. The report should include an explanation of the release's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such release and its impacts.

22. In the case of any violation or other event that may pose an immediate threat to the public health or welfare or the environment, including discharges of produced water or oil that threaten or enter streams or other water bodies, Defendants shall notify EPA, BIA and the State (if applicable) orally or by electronic or facsimile transmission as soon as possible, but not later than 24 hours after Defendants first knew of, or should have known of, the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

23. All reports shall be submitted to the persons designated in Section XIV of this Consent Decree (Notices).

24. Each report submitted by Defendants under this Section shall be signed by a responsible corporate officer or a duly authorized representative of that officer. Such reports shall include the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and present the information contained therein. I further certify, based on my inquiry of those individuals immediately responsible for obtaining the information, that I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

25. Defendants shall retain all underlying documents from which they have compiled any report or other submission required by Paragraph 21 of this Consent Decree until three years after termination of the Decree.

26. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the SDWA or CWA, or implementing regulations, or by any other federal, state, or local law, regulation, or requirement.

27. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

#### VII. STIPULATED PENALTIES

28. If Defendants fail to pay the civil penalty required to be paid under Section IV of this Decree (Civil Penalty) when due, Defendants shall pay a stipulated penalty of \$200 per day for each day that the payment is late. Late payment of the civil penalty shall be made in accordance with Paragraph 10 above. Stipulated penalties shall, as directed by the United States, be paid by EFT, or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ No. 90-5-1-1-07876 and United States Attorney's Office file number [ ] and delivered to the office of the United States Attorney, Northern District of Oklahoma, 333 West 4<sup>th</sup> Street, Suite 3460, Tulsa, Oklahoma 74103-3809. All transmittal correspondence shall state that any such payment tendered is for late payment of the civil penalty or for stipulated penalties for late payment, as applicable, and shall include the identifying information set forth in Paragraph 10 above. The United States shall be entitled to collect the costs (including attorneys fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties for late payment of the civil penalty.

29. Defendants shall be liable for Stipulated Penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section VIII (Force

Majeure). A "violation" includes violations of the SDWA or CWA during the period that the Decree is in effect (per paragraph 12) and the failure to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

30. Compliance Measures

a. Commencing with the lodging of this Consent Decree, the following stipulated penalties shall accrue per violation per day for any noncompliance with the requirements specified in Section V, or for any violation of the CWA, SDWA, or SPCC Plans for the Facilities unless otherwise set forth in subparagraph c:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$300	1st through 14th day
\$400	15th through 30th day
\$500	31st day and beyond

b. Reporting Requirements. The following stipulated penalties shall accrue per violation per day for any noncompliance with the reporting requirements of Section VI of this Consent Decree:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$200	1st through 14th day
\$300	15th through 30th day
\$400	31st day and beyond



c. Discharges. Commencing with the lodging of this Consent Decree, the following stipulated penalties shall accrue per violation per day for discharges of produced water or oil outside of secondary containment areas: \$1500 per violation per day for discharges that escape by breach, pumping or overflow from secondary containment; \$1500 per violation per day for discharges that threaten perennial or intermittent streams or other water bodies; \$5000 per violation per day for discharges that enter perennial or intermittent streams or other water bodies.

31. The United States shall make a demand for stipulated penalties accruing for violations under this Consent Decree, and such stipulated penalties shall be payable in accordance with the following Paragraphs.

32. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

33. Notwithstanding the date of any demand for such penalties, pursuant to Paragraph 25 above, all stipulated penalties shall begin to accrue on the day after the performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

34. Penalties shall continue to accrue as provided in accordance with Paragraph 33 during any dispute resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

A. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, accrued penalties determined to be owing, together with accrued interest,

shall be paid to the United States within thirty (30) days of the effective date of the agreement or the receipt of EPA's decision or order;

B. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall, within sixty (60) days of receipt of the Court's decision or order, pay all accrued penalties determined by the Court to be owing, together with accrued interest, except as provided in Subparagraph C, below;

C. If the District Court's decision is appealed by any Party, Defendant shall, within thirty (30) days of receipt of the final appellate court decision, pay all accrued penalties determined to be owing to the United States, together with accrued interest.

35. Upon the Effective Date of this Consent Decree, stipulated penalties for violations of applicable requirements, missed milestones, or other noncompliance, occurring between the date of lodging and the Effective Date of this Consent Decree shall be payable pursuant to the terms of this Section.

36. All stipulated penalties must be paid within thirty (30) days of the date payable. Stipulated penalties owing to the United States shall, as directed by the United States, be paid by EFT or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ No. 90-5-1-1-07876 and United States Attorney's Office file number [\_\_\_\_], and delivered to the office of the United States Attorney, Northern District of Oklahoma, 333 West 4<sup>th</sup> Street, Suite 3460, Tulsa, Oklahoma 74103-3809.

37. Should Defendants fail to pay stipulated penalties in accordance with the terms of this Consent Decree, the United States shall be entitled to collect interest on such penalties, as

provided for in 28 U.S.C. § 1961, together with the costs (including attorneys fees) incurred in any action necessary to collect any such stipulated penalties or interest thereon.

38. Subject to the provisions of Section XII of this Consent Decree (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States by reason of Defendants' failures to comply with any requirement of this Consent Decree or applicable law, except that for any violation of the Act, regulations or Permit for which this Consent Decree also provides for payment of a stipulated penalty, Defendants shall be allowed a credit for stipulated penalties paid against any statutory penalties imposed for such violation.

#### VIII. FORCE MAJEURE

39. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, its contractors, or any entity controlled by Defendants, that delays the performance of any obligation under this Consent Decree despite Defendants' best efforts to fulfill the obligation. "Best efforts" include using best efforts to anticipate any potential force majeure event and to address the effects of any such event (a) as it is occurring and (b) after it has occurred, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include Defendants' financial inability to perform any obligation under this Consent Decree.

40. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, as to which Defendant intends to assert a claim of force majeure, Defendants shall provide notice in writing, as provided in Section XIV of this Consent Decree (Notices), within seven (7) days of the time Defendants first knew of, or by the exercise of

due diligence should have known of, the event. Such notification shall include an explanation and description of the reasons for the delay; the anticipated duration of the delay; a description of all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; and Defendants' rationale for attributing such delay to a force majeure event. Failure to comply with the above requirements shall preclude Defendants from asserting any claim of force majeure. Defendants shall be deemed to know of any circumstance of which Defendants, its contractors, or any entity controlled by Defendants knew or should have known.

41. Defendants shall have the burden of proving, by a preponderance of the evidence, that each event described in the preceding Paragraph was a force majeure event; that Defendants gave the notice required by the preceding Paragraph; that Defendants took all reasonable steps to prevent or minimize any delay caused by the event; and that any period of delay it claims was attributable to the force majeure event was caused by that event.

42. If the Parties agree that Defendants could not have prevented or mitigated any delay, or anticipated delay, attributable to a force majeure event by the exercise of due diligence, the Parties shall stipulate to an extension of time for Defendants' performance of the affected compliance requirement by a period not exceeding the delay actually caused by such event. In such circumstances, the appropriate modification shall be made pursuant to Section XVII of this Consent Decree (Modification), where the modification is a material modification to a term of this Consent Decree or is a material modification of any Appendix to this Consent Decree. In the event the Parties cannot agree, the matter shall be resolved in accordance with Section IX of this Consent Decree (Dispute Resolution). An extension of time for performance of the obligations

affected by a force majeure event shall not, of itself, extend the time for performance of any other obligation.

#### IX. DISPUTE RESOLUTION

43. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, such procedures shall not apply to actions by the United States to enforce obligations of the Defendant that have not been disputed in accordance with this Section.

44. Informal Dispute Resolution. Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendants sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within twenty-one (21) days after the conclusion of the informal negotiation period, Defendants invokes formal dispute resolution procedures as set forth below.

45. Formal Dispute Resolution. Defendants shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting Defendants' position and any supporting documentation relied upon by Defendants.

46. The United States shall serve its Statement of Position within 60 days of receipt of Defendants' Statement of Position. The United States' Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendants, unless Defendants file a motion for judicial review of the dispute in accordance with the following Paragraph.

47. Defendants may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIV of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within forty-five (45) days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendants' position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

48. The United States shall respond to Defendants' motion within the time period allowed by the Local Rules of this Court. Defendants may file a reply memorandum, to the extent permitted by the Local Rules.

49. In any dispute under this Paragraph, Defendants shall bear the burden of demonstrating that its position clearly complies with and furthers the objectives of this Consent Decree, the SDWA and the CWA, and that Defendants are entitled to relief under applicable law. The United States reserves the right to argue that its position is reviewable only on the

administrative record and must be upheld unless arbitrary and capricious or otherwise not in accordance with law.

50. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendants under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated Penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 34, above. If Defendant does not prevail on the disputed issue, Stipulated Penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

#### X. INFORMATION COLLECTION AND RETENTION

51. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry to any Facilities covered by this Consent Decree, at all reasonable times, upon presentation of credentials to:

- A. monitor the progress of activities required under this Consent Decree;
- B. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- C. obtain samples and, upon request, splits of any samples taken by Defendant or its representative, contractors, or consultants; and
- D. assess Defendants' compliance with this Consent Decree and any applicable federal environmental regulations.

52. Upon request, Defendants shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Upon request, EPA shall allow Defendants to take split or duplicate samples of any samples it takes.

53. Until five (5) years after the termination of this Consent Decree, Defendants shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all records and documents (including records or documents in electronic form) now in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendants' performance of compliance measures under Section V of this Decree. This record retention requirement shall apply regardless of any corporate document-retention policy to the contrary.

54. At the conclusion of the document-retention period provided in the preceding Paragraph, Defendants shall notify the United States at least ninety (90) days prior to the destruction of any records or documents subject to the requirements of the preceding Paragraph, and, upon request by the United States, Defendant shall deliver any such records or documents to EPA. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendants assert such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendants. However, no documents, reports, or other information created



or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged.

55. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendants to maintain records or information imposed by applicable federal or state laws, regulations, or permits.

#### XI. FAILURE OF COMPLIANCE

56. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendants' compliance with any aspect of this Consent Decree will result in compliance with provisions of the SDWA or CWA. Notwithstanding the United States' review and approval of any documents submitted to it by Defendants pursuant to this Consent Decree, Defendants shall remain solely responsible for compliance with the terms of the SDWA and CWA and this Consent Decree. Application for construction grants, State Revolving Loan Funds, or any other grants or loans, or other delays caused by inadequate facility planning or plans and specifications on the part of Defendants shall not be cause for extension of any required compliance date in this Consent Decree.

#### XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

57. This Consent Decree resolves the civil claims of the United States for the violations of the CWA and SDWA alleged in the Complaint filed in this action through the date of lodging of this Decree.

58. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein. This Consent Decree shall not be construed to prevent or limit the rights of the United States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal laws, regulations, or permit conditions, except as expressly specified herein. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendants' Facilities, whether related to the violations addressed in this Consent Decree or otherwise.

59. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendants are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendants' compliance with this Consent Decree shall be no defense to any action commenced pursuant to said laws, regulations, or permits. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendants' compliance with any aspect of this Consent Decree will result in compliance with provisions of the SDWA or CWA.

60. This Consent Decree does not limit or affect the rights of Defendants or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendants, except as otherwise provided by law.

61. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

### XIII. COSTS

62. The Parties shall each bear their own costs of litigation of this action, including attorneys fees, except as provided in Paragraphs 28 and 37, above.

### XIV. NOTICES

63. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DOJ No. 90-5-1-1-07876

and

Chief, Water Resources Section (6EN-WR)  
Compliance Assurance and Enforcement Division  
U.S. Environmental Protection Agency  
Region VI  
1445 Ross Ave.  
Mail Code (6EN)  
Dallas, Texas 75202

and

Deputy Regional Counsel, Enforcement  
U.S. Environmental Protection Agency  
Region VI  
1445 Ross Ave.  
Dallas, Texas 75202

To Defendant:

Mark McCann  
President  
McCann Resources, Inc.  
1613 W. 6<sup>th</sup> St.  
Bartlesville, Ok. 74003

John Horst, Esq.  
P.O. Box 560  
Caney, Kansas 67333

64. Notices, submissions, and any other written communications submitted pursuant to this Section shall be deemed effective upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XV. EFFECTIVE DATE

65. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XVI. RETENTION OF JURISDICTION

66. The Court shall retain jurisdiction of this case until termination of this Consent Decree, for the purpose of enabling any of the Parties to apply to the Court for such further order, direction, or relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section IX of this Decree (Dispute Resolution).

XVII. MODIFICATION

67. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to any term of this Decree, it shall be effective only upon approval by the Court. The terms and

schedules contained in Appendices of this Decree, and requirements applicable to transferees, may be modified upon written agreement of the Parties without Court approval, unless any such modification effects a material change to the terms of this Consent Decree or materially affects the Defendants' ability to meet the objectives of this Decree.

#### XVIII. TERMINATION

68. After Defendants have (a) completed the requirements of this Consent Decree, including any compliance measures required pursuant to Section V and the payment of the civil penalty and any accrued stipulated penalties as required by this Consent Decree, and (b) maintained satisfactory compliance with the requirements of this Consent Decree for a period of 2 years from the date of lodging of this Consent Decree, then Defendants may serve upon the United States a "Motion for Termination of Consent Decree" ("Motion"), with supporting documentation demonstrating that Defendants have successfully completed all requirements of this Decree and that all other requisite conditions for termination of the Decree have been satisfied.

69. Following receipt by the United States of Defendants' Motion, the Parties shall schedule one or more conferences (which may be by telephone) to discuss the Motion and any disagreement that the Parties may have as to whether Defendants have satisfactorily complied with the requirements of the Consent Decree and whether all other requisite conditions for termination of the Decree have been satisfied. Such period of consultation shall continue for no more than sixty (60) days following receipt of Defendants' Motion.

70. If, following the consultation period provided for by the preceding Paragraph, the Parties cannot come to agreement as to whether Defendants have satisfactorily complied with the

requirements of the Consent Decree, or whether all other requisite conditions for termination of the Decree have been satisfied, Defendants may file a Motion with the Court.

71. The United States shall have the right to oppose Defendants' Motion and to seek an extension of the Decree. If the United States opposes termination of the Decree, Defendants shall have the burden of proof by clear and convincing evidence that Defendants have satisfactorily complied with the requirements of the Decree and that all other requisite conditions for termination of the Decree have been satisfied.

72. If, following the consultation period provided for by Paragraph 69 above, the Parties agree that Defendants have satisfactorily complied with the requirements of the Decree and that all other requisite conditions for termination of the Decree have been satisfied, they shall file with the Court an appropriate pleading so notifying the Court and requesting termination of the Decree.

#### XIX. PUBLIC PARTICIPATION

73. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendants consent to entry of this Consent Decree without further notice.

#### XX. SIGNATORIES/SERVICE

74. Each undersigned representative of Defendants and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he

or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

75. This Consent Decree may be signed in counterparts, and such counterpart signature pages shall be given full force and effect.

76. Defendants hereby agree not to oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendants in writing that it no longer supports entry of the Decree.

77. Defendants hereby agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

#### XXI. INTEGRATION/APPENDICES

78. This Consent Decree and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersede all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

#### XXII. FINAL JUDGMENT

79. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between the United States and Defendants. The Court finds that

there is no just reason for delay and therefore enters this judgment as a final judgment under Fed.

R. Civ. P. 54 and 58.

XXIII. APPENDICES

80. The following appendices are attached to and incorporated into this Consent

Decree:

- A. December 16, 2005 Multiple-Site Investigation Report submitted by Apex Environmental, Inc. to Mark McCann.
- B. "Daily Inspection Procedures SPCC Plan Attachment #4"
- C. "SPCC Plan, Attachment #3 Onshore Facility Bulk Tanks Drainage System"
- D. "Annual Inspection Procedures Attachment #4A"

Dated and entered this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
HONORABLE TERENCE KERN  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA



*United States v. McCann Resources, Inc. and Mark McCann* (N.D. Ok.)

FOR PLAINTIFF UNITED STATES OF AMERICA:

DATED: 11/22/06

\_\_\_\_\_  
W. BENJAMIN FISHEROW  
Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources  
Division

DATED: 11/23/06

\_\_\_\_\_  
KENNETH G. LONG  
Senior Attorney  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
Ben Franklin Station  
P.O. Box 7611  
Washington, D.C. 20044-7611  
(202) 514-2840

*United States v. McCann Resources, Inc. and Mark McCann* (N.D. Ok.)

DAVID E. O'MEILIA  
United States Attorney  
Northern District of Oklahoma

LORETTA RADFORD  
Assistant United States Attorney  
Northern District of Oklahoma  
333 West 4th Street, Suite 3460  
Tulsa, Oklahoma 74103-3809

*United States v. McCann Resources, Inc. and Mark McCann (N.D. Ok.)*

FOR THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY - REGION VI:

DATED: \_\_\_\_\_

\_\_\_\_\_  
RICHARD E. GREENE  
Regional Administrator  
United States Environmental Protection Agency  
Region VI  
1445 Ross Avenue  
Dallas, Texas 75202-2733

DATED: \_\_\_\_\_

\_\_\_\_\_  
EFREN ORDÓÑEZ, ESQ.  
Assist. Regional Counsel (6RC - EW)  
United States Environmental Protection Agency  
Region VI  
1445 Ross Avenue  
Dallas, Texas 75202-2733

*United States v. McCann Resources, Inc. and Mark McCann (N.D. Ok.)*

FOR THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY - HEADQUARTERS:

DATED: \_\_\_\_\_

\_\_\_\_\_  
MARK POLLINS  
Director  
Water Enforcement Division (2243A)  
Office of Civil Enforcement  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

*United States v. McCann Resources, Inc. and Mark McCann* (N.D. Ok.)

FOR DEFENDANTS:

Date: \_\_\_\_\_

\_\_\_\_\_  
MARK MCCANN

Date: \_\_\_\_\_

\_\_\_\_\_  
MARK MCCANN  
President  
MCCANN RESOURCES, INC.